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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,410	12/11/2003	John S. McKenzie	04112	1409
23688	7590	07/05/2005	EXAMINER	
Bruce E. Harang PO BOX 872735 VANCOUVER, WA 98687-2735			BRAHAN, THOMAS J	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/707,410

Applicant(s)

MCKENZIE, JOHN S.

Examiner

Thomas J. Brahan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/11/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

*Handwritten signature*

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1. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the removable floor panel of claim 11 and the clamp of claim 12 must be shown, or the features must be canceled from the claims. No new matter may be entered.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 10, and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by Bouza. Bouza shows a pivoting platform with a pivot joint at one corner. It moves to various positions, any of which can be considered as a storage position, or as loading and unloading positions. A platform support member (50) is located opposite the pivoting joint from the platform, as recited in claim 2. The platform is removably mounted under a floor panel, which is also removable, as recited in claims 10 and 11.

5. Claims 1 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by McClendon et al. McClendon et al shows a pivoting platform made of plastic with pivot joints at the corners of the platform. The platform is removably clamped in place, as recited in claims 10 and 12.

6. Claims 1, 3, 4, 7, and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hurst. Hurst shows a pivoting platform with a pivot joint along the back edge, as to be along a corner. It moves between a storage position and a loading/unloading position. Pull straps (17) are located opposite the pivot joints, as recited in claims 3 and 4. It is made of plastic with part of the pivoting joint integral therewith, as recited in claim 7. It is removably mounted, as recited in claim 10.

7. Claims 1, 2 and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Megargle et al. Megargle et al shows a pivoting platform (72) with a pivot joint at a corner. It moves between a storage position and a loading/unloading position. A platform support member (42) is located opposite the pivoting joint from the platform, as recited in claim 2. It is permanently mounted in the cargo area, to the same degree as applicant's platform, as permanent is a relative term, as recited in claim 10.

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8. Claims 5, 6 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McClendon et al. McClendon et al shows a pivoting platform made of plastic, but varies from the claims by not specifying that the plastic is capable of being vacuum formed (claim 5), by injection molding (claim 6), or with metal pivot pins (claim 8). However these would have been obvious design considerations within the level of ordinary skill in the art at the time the invention was made by applicant, since it has been held to be within the general skill of a worker to select a known material on the basis of suitability for the intended use as a matter of obvious design choice, see *In re Leshin*, 125 USPQ 416.

9. Claims 5, 6 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hurst. Hurst shows a pivoting platform made of plastic, but varies from the claims by not specifying that the plastic is capable of being vacuum formed (claim 5), by injection molding (claim 6), or with metal pivot pins (claim 8). However these would have been obvious design considerations within the level of ordinary skill in the art at the time the invention was made by applicant, since it has been held to be within the general skill of a worker to select a known material on the basis of suitability for the intended use as a matter of obvious design choice, see *In re Leshin*, 125 USPQ 416.

10. Ozols, Pilhall, Townsend and Wegner et al are cited as showing related cargo platform with pivot joints at the corners.

11. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (571) 272-6928. The fax number for all patent applications is (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas J. Brahan  
Primary Examiner  
Art Unit 3652